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IOWA UTILITIES BOARD
IOWA DEPARTMENT OF COMMERCE

January 7, 2000

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JAN 10 2000

FCC MAIL ROOM

Ms. Magalie R. Salas, Secretary
Federal Communications Commission
TW-A325
445 12th St. SW
Washington, DC 20554

RE: Iowa Utilities Board Petition for Delegation of Additional Authority
and Request for Limited Waiver, CC Docket No. 96-98, NSD File
No. L-99-96, DA 99-2770

Dear Ms. Salas:

Enclosed for filing in the above docket is an original and 11 copies of the Initial
Comments of the Iowa Utilities Board.

One additional copy has been included to be date-stamped and returned in the self-
addressed envelope.

Sincerely,

William H. Smith, Jr.
Iowa Utilities Board

Enclosures

No. of Copies rec'd 0411
List A B C D E

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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JAN 10 2000

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In the Matter of

IOWA UTILITIES BOARD
PETITION FOR DELEGATION OF
ADDITIONAL AUTHORITY AND
REQUEST FOR LIMITED WAIVER

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CC Docket No. 96-98
NSD File No. L-99-96
DA 99-2770

INITIAL COMMENTS OF THE IOWA UTILITIES BOARD

Introduction

The Iowa Utilities Board (IUB) urges the Commission to grant the delegations of authority and the limited waiver requested in the IUB's Petition filed November 10, 1999. These comments are submitted to provide the Commission with an update regarding the facts and circumstances of area code exhaust in Iowa. In the Petition, the IUB requested delegation of authority to: (a) Institute mandatory thousand block number pooling (TBNP), (b) Reclaim unused and reserved exchange codes, and (c) Monitor the use of numbering resources. The IUB also requested a partial waiver of the Commission's ten-digit dialing requirement, to be used if the IUB decides to implement an overlay relief mechanism.

Since the Petition was filed, certain events have occurred that have a bearing on the IUB's requests and demonstrate the need for early Commission action on the Petition. First, NANPA has declared a jeopardy situation in the 515 area code, resulting in an industry plan for rationing the remaining central office

codes. That plan has the potential for certain anticompetitive impacts in the Iowa marketplace, making it more desirable for the Commission to act quickly and for the IUB to accelerate its relief decision for the 515 area code. Second, the IUB has conducted seven public information and comment meetings and a formal hearing in connection with area code relief for the 515 NPA and has learned that the local exchange carriers are failing to voluntarily “groom” their existing numbering resources for available central office codes. The IUB has also learned that opposition to an overlay solution primarily stems from the ten-digit dialing requirement (although the dilution of geographic identity is also a factor). Finally, the Commission recently issued orders granting similar requests for delegated authority to five other states, making it reasonable for the Commission to act quickly on the IUB Petition. Each of these four points will be described in greater detail below.

1. The 515 area code is in jeopardy

On December 1, 1999, representatives of NANPA called IUB staff to informally notify the agency that the 515 area code had entered jeopardy status, meaning there are no longer enough available NXX codes to last until the expected date of implementation of area code relief, based upon the historical rate of usage. This was an unexpected event, triggered by a request by a single CLEC for a relatively large number of central office codes.

Prior to that request, the 515 area code had 133 available NXX codes. At the projected usage rate of three to four NXX codes per month, those codes

were expected to last until the second quarter of 2001, according to the 1999 COCUS. The industry petition for area code relief, now being considered by the Board in Docket No. SPU-99-22, proposed that the Board adopt overlay relief with permissive dialing beginning on July 1, 2000, and mandatory dialing on November 1, 2000. On this schedule, area code relief would have been in place well in advance of the projected exhaust date, and the 515 area code was not in jeopardy.

However, in late November a competitive local exchange carrier requested 58 NXX codes in the 515 area code to permit it to begin offering competitive service in an equivalent number of central offices. This reduced the number of available NXX codes to 75, which NANPA considered an insufficient number to accommodate the projected usage rate through November 1, 2000. NANPA accordingly declared jeopardy and began rationing NXX codes under an interim rationing plan, pending a meeting of the interested telephone industry members to consider a final rationing plan. That meeting was held by conference call on December 15, 1999. IUB staff was permitted to listen to the call, but could not make motions or participate formally in the process of achieving industry consensus.

Under the final plan adopted by consensus among the participating industry representatives, no more than seven central office codes will be issued in the 515 area code in any month, subject to two exceptions. First, if all seven codes are not assigned in any given month, the unassigned codes will roll over and be available in the following months. Second, a separate pool of 15 central

office codes was created for the exclusive use of new entrants; each new CLEC entering the 515 area code may request one of the 15 reserved codes in addition to its allocation from the seven-per-month pool.

The industry participants also adopted one more restriction on the availability of central office codes: No carrier may request more than three central office codes in any given month from the seven-per-month pool. The IUB is concerned about the potential anti-competitive impact of this restriction. If a new CLEC wants to enter the market in the 515 area code, it can obtain a maximum of four central office codes in the first month (three from the regular pool and one from the new-entrant pool) and can only obtain a maximum of three central office codes in each subsequent month (until area code relief is implemented). This means that if a new CLEC wants to enter the greater Des Moines marketplace in a single step, it cannot obtain enough central office codes to do so in a single month. The IUB believes this may function as a barrier to entry and slow the growth of local exchange competition in Iowa, a result that is contrary to the official policy of the State of Iowa, see Iowa Code § 476.95(2) (1999). Accordingly, the IUB is accelerating its own 515 area code relief proceedings and will consider advancing the permissive and mandatory implementation dates in order to reduce the time the rationing plan is in effect. The IUB asks that the Commission accelerate its own action on the IUB's Petition, as well.

It is possible that the IUB may have to act in the 515 area code docket before the Commission is able to rule on the Petition. However, the Commission

should not interpret any possible action by the IUB with respect to the 515 area code as meaning that the IUB Petition is no longer a high priority. The 319 area code, in eastern Iowa, is also the subject of area code relief proceedings, identified as Docket No. SPU-99-30. That NPA is not yet in jeopardy status, with a projected exhaust date in the third quarter of 2002, but Iowa's experience in the 515 area code demonstrates how quickly that situation can change. The 515 area code entered jeopardy status literally overnight, as the result of market entrance by a single CLEC. The same could happen in the 319 area code. The IUB urges the Commission to act on the Petition at the earliest opportunity.

2. Telephone companies have not actively pursued number resource optimization on their own

The IUB's experience in the 515 area code relief proceedings demonstrates that local exchange companies will not actively pursue number resource optimization on their own; the IUB will have to mandate action. Even without the authority to **require** telephone companies to review their number resource utilization, the IUB successfully recovered almost 20 NXX codes in the 515 and 319 area codes. The ease with which these NXX codes were recovered only demonstrates that the telephone companies have not taken voluntary action to conserve numbering resources, making it necessary that the Commission delegate the requested authority so the IUB can mandate the necessary review.

For example, following a meeting with NANPA representatives in August of 1999, IUB staff reviewed the list of NXX codes assigned in the 515 and 319 area codes and identified nine NXX codes in the 319 area code that were

assigned to a CLEC that had applied for, but had not yet received, a certificate of public convenience and necessity from the IUB. Staff contacted the CLEC to inquire about the status of the number assignments and learned that the CLEC's plans had changed and the NXX codes were no longer required. Within a few days, the CLEC voluntarily returned the NXX codes to the NANPA pool for reassignment. The point is not that the CLEC obtained NXX codes prior to receiving a certificate from the IUB, but that no one in the industry was reviewing number usage for even the most obvious violations of the industry guidelines. It is apparent that this review will not take place unless the IUB directs it.

In another example, 10 NXX codes were recently reclaimed from U S WEST Communications, Inc. (U S West), in the 515 area code. As a part of the 515 area code relief proceedings, the Board asked all parties to identify all protected central office codes of which they are aware. U S West responded that it has no protected codes in the 515 area code, but NANPA identified 31 protected codes, some of which were attributed to U S West or to industry usage, including U S West. At the December 14, 1999, hearing, the U S West representative testified that when the responsibility for central office code administration was transferred from U S West to NANPA, U S West informed NANPA that those ten protected codes were no longer needed. However, for unknown reasons the codes were not returned to the numbering pool, and U S West apparently never took any action to verify the status of the codes. After the hearing, the codes were returned to the pool. If the IUB had not pursued this line of inquiry, those ten codes would continue to be unavailable and unused.

The industry further demonstrated its lack of interest in number conservation by the general lack of participation in the Board's 515 area code relief docket. Approximately 34 telecommunications carriers attended and participated in the industry meeting that produced NANPA's report to the Board, recommending an overlay, but only one carrier, U S West, filed substantive comments in support of the industry recommendation. This lack of participation by other affected LECs is further evidence of their lack of interest in this issue.

The IUB anticipates that some parties filing comments in this proceeding will urge the Commission to deny the Petition and adopt a national approach to number resource optimization, rather than delegating any additional authority to states like Iowa. The circumstances described above, however, demonstrate that the industry is not taking sufficient action on its own to conserve number resources. Iowa cannot afford to wait for national action, to wait for release and testing of new versions of software, or to wait for the telephone companies to decide that they are finally interested in making significant voluntary efforts to conserve numbers. The Commission should delegate authority to Iowa to begin conservation efforts now.

3. Opposition to an overlay solution primarily stems from the ten-digit dialing requirement

In Docket No. SPU-99-22, the IUB's proceeding for 515 area code relief, the IUB conducted seven public information and comment meetings, at which numerous members of the public offered thoughtful and well-informed comments. Apart from those meetings, the IUB has also received hundreds of written, e-

mailed, and telephone comments from the public, including individuals and businesses. Other members of the public have expressed their opinions through letters to their local newspapers and other means. Many comments are opposed to ten-digit dialing for local calls, but this does not necessarily mean they favor a split. The tone of these comments suggests that an overlay solution with a reduced ten-digit dialing requirement may be more readily accepted.

The IUB believes that it is technologically possible to implement a competitively-neutral overlay with a reduced level of ten-digit dialing, that is, without immediately requiring that every single telecommunications customer dial the area code with every single local call. No telecommunications company has submitted anything to the IUB in Docket No. SPU-99-22, or any other docket, to indicate otherwise. Moreover, the IUB believes a partial waiver may be particularly effective in the specific circumstances of the 515 and 319 area codes, with large rural areas and numerous ILECs and rate centers. A partial waiver of the ten-digit dialing requirement, if an overlay is selected by the IUB, could preserve seven-digit local dialing for some customers for a significant length of time.

The IUB accordingly renews its request for a partial waiver of 47 C.F.R. § 52.19(c)(3)(ii) to permit seven-digit dialing for local calling to continue until one or more of the NXX codes for a particular local calling area is duplicated in the overlay area code, if the switch is technologically capable of this function. The result, if the IUB chooses an overlay for the 515 or 319 area code, will be a phase-in of the ten-digit dialing requirement as required. The phase-in will be

competitively neutral and would likely preserve seven-digit local dialing for a significant number of customers for many years.

4. The Commission recently delegated similar number optimization authority to five other states

When the IUB filed its Petition, the Commission had delegated authority in areas such as TBNP, code reclamation, and auditing of number usage to at least five states: New York, Florida, Massachusetts, California, and Maine. After the IUB filed its Petition, the Commission delegated similar authority to five more states: Texas, Connecticut, Wisconsin, Ohio, and New Hampshire¹. Given that the IUB's Petition regarding TBNP, code reclamation, and auditing of number usage was modeled on the petition filed by the Connecticut Department of Public Utility Control, it should be easy for the Commission to delegate the same authority to the IUB without delay.

Conclusion

¹ The Common Carrier Bureau issued orders on November 30, 1999, in DA 99-2633, DA 99-2634, DA 99-2635, DA 99-2636, and DA 99-2637, delegating the following authority to each state regulatory agency: Connecticut received authority to institute thousands-block pooling trials, reclaim unused and reserved NXX codes, and audit number assignment and utilization requirements. New Hampshire received authority to reclaim unused and reserved NXX codes; set numbering allocation standards, including the establishment of a requirement for carriers to demonstrate facilities readiness and the setting of fill rates; enforce and audit carrier compliance with number utilization reporting requirements; require the submission of utilization and forecast information; and institute a thousands-block pooling trial. Ohio received authority to set NXX code allocation standards; reclaim unused and reserved NXX codes, and thousand-number blocks within those codes; investigate and order the return of reserved and protected NXX codes; require sequential number assignment; and institute thousands-block pooling trials. Texas received authority to institute thousands-block pooling trials; reclaim unused and reserved NXX codes, and thousand-number blocks within those codes; require the submission of utilization and forecast information to the Texas Commission; and require sequential number assignment. Finally, Wisconsin received authority to set NXX code allocation standards; reclaim unused and reserved NXX codes, and thousand-number blocks within those codes; investigate and order the return of reserved and protected NXX codes; require sequential number assignment; require the submission of utilization and forecast information; audit carriers' use of numbering resources;

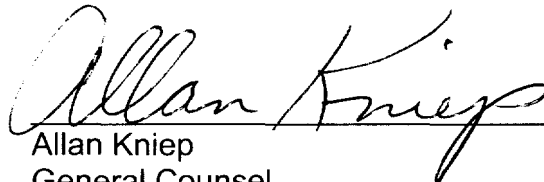
The IUB believes that the conservation measures it seeks to implement will **not** significantly slow the introduction of new area codes in the 515 and 319 area codes as a result of the existing number exhaust situations. However, prompt implementation of number conservation could delay the need for relief in the 712 area code, in western Iowa, and should also delay the need for a second round of relief proceedings for the customers in the existing 515 and 319 area code proceedings. Moreover, experience demonstrates that the telephone industry has not, to date, actively pursued number conservation. The IUB believes that the industry will not undertake those efforts unless it is directed by the IUB; accordingly, the IUB asks that the Commission grant authority to the Iowa Utilities Board to implement thousands block number pooling, reclamation of unused and reserved exchange codes, and monitoring the use of numbering resources, at the earliest opportunity.

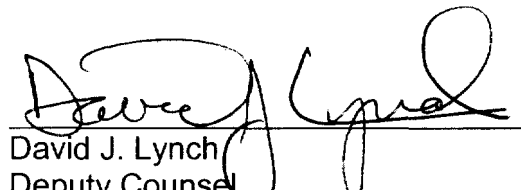
Further, the IUB believes that **if** overlay relief is chosen in either the 515 or 319 area code, the gradual implementation of ten-digit dialing may minimize

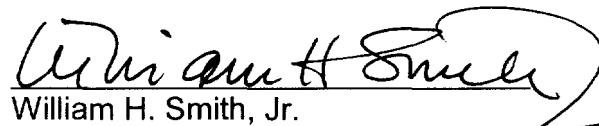
maintain rationing procedures for six months following area code relief; and institute thousands-block pooling trials.

adverse customer impact in the longer term, and the Iowa Utilities Board asks that its request for waiver be granted, as well.

Respectfully submitted,


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January 10, 2000

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